

HOUSE BILL NO. 542

INTRODUCED BY J. MUSGROVE

BY REQUEST OF THE STATE AUDITOR

A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING THE COLLECTION OF THE STAMPING FEE FOR SURPLUS LINES TO THE COMMISSIONER OF INSURANCE IF THE SURPLUS LINES INSURANCE PRODUCER ORGANIZATION IS NOT PERFORMING ITS DESIGNATED FUNCTIONS; AND AMENDING SECTION 33-2-321, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-2-321, MCA, is amended to read:

"33-2-321. Surplus lines advisory organizations -- examination by commissioner -- stamping fee.

(1) A surplus lines advisory organization of surplus lines insurance producers may be formed to:

(a) facilitate and encourage compliance by its members with the laws of this state and the rules of the commissioner relative to surplus lines insurance;

(b) provide means for the confidential examination of all surplus lines insurance written by its members to determine whether the surplus lines insurance complies with this part;

(c) communicate with organizations of authorized insurers with respect to the proper use of the surplus lines insurance market; and

(d) receive and disseminate to its members information relative to surplus lines insurance.

(2) The surplus lines advisory organization shall file with the commissioner:

(a) a copy of its constitution, its articles of agreement or association, or its certificate of incorporation;

(b) a copy of its bylaws, rules, and regulations governing its activities;

(c) a current list of its members;

(d) the name and address of a resident of this state upon whom notices or orders of the commissioner or processes issued at ~~his~~ the commissioner's direction may be served; and

(e) an agreement that the commissioner may examine the advisory organization under the provisions of subsection (3).

(3) The commissioner may make or cause to be made an examination of the surplus lines advisory organization. The surplus lines advisory organization shall pay the reasonable cost of an examination upon presentation to it by the commissioner of a detailed account of the cost. The officers, managers, insurance producers, and employees of the surplus lines advisory organization may be examined at any time, under oath, and shall exhibit all books, records, accounts, documents, or agreements governing its method of operation. The commissioner shall furnish two copies of the examination report to the examined surplus lines advisory organization and shall notify the surplus lines advisory organization that it may, within 20 days of receipt of the report, request a hearing on the report or on any facts or recommendations contained in it. If the commissioner finds the surplus lines advisory organization or any of its members to be in violation of this part, ~~he~~ the commissioner may issue an order requiring the discontinuance of the violation.

(4) The commissioner may by order compel a surplus lines insurance producer to join the surplus lines advisory organization as a condition of continued licensure under this part.

(5) (a) If a surplus lines advisory organization is performing functions as provided in subsection (1), it may collect a stamping fee not to exceed 1% of the premium payable for surplus lines insurance transacted by its members in this state. The commissioner shall establish the stamping fee by rule. The surplus lines advisory organization shall use the stamping fees it collects to pay its expenses in connection with performing the functions set forth in subsection (1).

(b) If a surplus lines advisory organization is not operating as set forth in this section, the stamping fee may be collected by the commissioner and placed in a state special revenue account for the expenses of regulating surplus lines."

- END -